

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

IN RE: BAIR HUGGER FORCED AIR MDL No.: 15-md-02666 (JNE/FLN)
WARMING PRODUCT LIABILITY
LITIGATION

This Document Relates To:

MICHAEL MCDANIEL,

Civil Action No.: 17-CV-03311-JNE-FLN

Plaintiff,

**DECLARATION OF DONALD C. GREEN II IN SUPPORT OF
PLAINTIFF'S RESPONSE TO DEFENDANTS' MOTION TO DISMISS**

I, Donald C. Green II, declare as follows:

1. I am an attorney at Kennedy Hodges, LLP and Counsel for Plaintiff Michael McDaniel in the above-captioned matter.
2. I submit this affidavit in opposition to Defendants' Motion to Dismiss for Failure to Comply with Pretrial Order No. 14 [Dkt. 1124] filed on March 1, 2018.
3. Mr. McDaniel contacted Kennedy Hodges, LLP in July of 2015 regarding injuries that were allegedly caused by the Bair Hugger patient warming device.
4. Medical records and billing records pertaining to Mr. McDaniel's treatment were obtained by Kennedy Hodges through its third party medical records retrieval company.
5. This case was filed on July 25, 2017 to comply with the statute of limitations deadline.

6. Phone calls were placed and letters were sent to Mr. McDaniel by staff at Kennedy Hodges in an attempt to reach him and obtain information to complete the Plaintiff Fact Sheet. These communication attempts were made between July 2017 and October 2017, prior to and continuing after the original deadline for submission of the Plaintiff Fact Sheet.
7. On November 17, 2017, we learned that Mr. McDaniel had passed away on June 29, 2017. We were not aware of Mr. McDaniel's passing until this date.
8. Staff at Kennedy Hodges spoke to Ms. Maebell McDaniel, the mother of Mr. McDaniel, on November 28, 2017. We were unable to obtain the information necessary to complete the Plaintiff Fact Sheet from Ms. McDaniel at this time.
9. To date, Kennedy Hodges has not received further information from Ms. McDaniel that would allow us to complete and submit the Plaintiff Fact Sheet.
10. As we have been unable to obtain the additional information necessary to complete the Plaintiff Fact Sheet for this claim, we have not been able to cure the alleged deficiencies pertaining to the Plaintiff Fact Sheet that has been submitted for this case.

Pursuant to 28 U.S.C. § 1746(2), I declare under penalty of perjury that the foregoing is true and correct.

March 8, 2018

/s/ Donald C. Green II
Donald C. Green II